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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92048989
Party	Defendant Van Nelle Tabak Nederland BV
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Submission	Other Motions/Papers
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Date	04/14/2008
Attachments	ANSWER TO CONSOLIDATED PETITION TO CANCEL.pdf (3 pages)(88462 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of
Registration Nos. 1,686,628, 2,950,896, and
3,328,623

TOP TOBACCO, LP)	
)	
)	
v.)	
)	
)	Cancellation No. 92048989
)	
VAN NELLE TABAK NEDERLAND BV,)	
)	
Respondent.)	

ANSWER TO CONSOLIDATED PETITION TO CANCEL

Pursuant to 37 C.F.R. § 2.114, **VAN NELLE TABAK NEDERLAND BV** (hereinafter “Respondent”), a corporation of the Netherlands with principal offices located at Slachtedijk 28A 8501 Za Joure, Netherlands, hereby answers the Consolidated Notice of Cancellation filed by Petitioner, **TOP TOBACCO, LP** (hereinafter “Petitioner”), as follows:

Respondent admits the statements made in the preamble of the Consolidated Petition for Cancellation except that it denies that Registration No. 1,686,628 issued for the mark “ROUTE 66” plus design only for “cigarettes and lighters in International Class 34 and is without knowledge or information sufficient to form a belief as to the truth of the allegation that Petitioner believes that it will be injured by the continued registration of Registration Nos. 1,686,628, 2,950,896, and 3,328,623 and therefore denies the same.

1. Respondent is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 1 and therefore denies the same.
2. Respondent admits the averments of paragraph 2 except that it denies that Petitioner has accurately described the identification of goods in the application.
3. Respondent admits the averments of paragraph 3.
4. Respondent admits the averments of paragraph 4 except that Respondent denies that Registration No. 1,686,628 issued based on Section 44(d) of the Trademark Act.
5. Respondent admits the averments of paragraph 5 except that Respondent denies that Navigator, Inc. “canceled the registration for International Class 32 goods”.
6. Respondent admits the averments of paragraph 6.
7. Respondent admits the averments of paragraph 7 except that Respondent denies that Registration No. 2,950,896 issued based on Section 44(d) of the Trademark Act.
8. Respondent admits the averments of paragraph 8.
9. Respondent denies the averments of paragraph 9.
10. Respondent denies the averments of paragraph 10.
11. Respondent denies the averments of paragraph 11.

AFFIRMATIVE DEFENSES

12. The Petition for Cancellation fails to state a claim upon which relief can be granted.

13. The Petition for Cancellation of U.S. Registration No. 1,686,628 is moot.

WHEREFORE, Respondent denies that Petitioner is entitled to the relief requested in its Consolidated Petition for Cancellation and requests that the Consolidated Petition for Cancellation be dismissed.

Respectfully Submitted,
STITES & HARBISON, PLLC

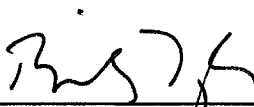


Brewster Taylor

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April 14, 2008

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing ANSWER TO CONSOLIDATED PETITION TO CANCEL was *mailed via first class mail*, postage prepaid, to counsel for Petitioner, Antony J. McShane, Esquire, Lara V. Hirshfeld, Esquire and Gregory J. Leighton, Esquire, NEAL, GERBER & EISENBERG LLP, Two North LaSalle Street, Chicago, Illinois 60602-3801, on this the *14th day of April 2008*.



Brewster Taylor